

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re:  
**REPEATER TECHNOLOGIES, INC.,**  
Debtor.

Case No. 02-55642-MM

Chapter 7

**Memorandum Decision and Order on First  
Interim Application for Compensation by  
Wendel, Rosen, Black & Dean, LLP.**

This matter is before the court on the First Interim Application for Compensation and Reimbursement of Expenses by Counsel for the Trustee. The trustee's attorney, Wendel, Rosen, Black & Dean, LLP, is seeking an award of fees in the amount of \$196,786.25 and reimbursement of costs advanced in the amount of \$9,920.13. After a hearing on November 6, 2003, the court took the application under advisement. Having considered the submissions of counsel and their arguments, the court finds as follows:

**BACKGROUND**

The debtor filed its petition for relief under chapter 7 of the Bankruptcy Code on October 4, 2002. Suzanne L. Decker was appointed to serve as the chapter 7 trustee and, with court approval, she retained the applicant as her counsel on October 22, 2002. To date, the applicant has assisted the trustee in her inventory, evaluation and sale of the debtor's assets, including its equipment and intellectual property. More specifically,

1 the applicant was charged with assessing whether liens or leases existed that might affect a sale and with setting  
2 up a bidding procedure to maximize competitive bidding. To accomplish its sales goals, the applicant helped  
3 the trustee divide the assets into a number of separate sale lots. Next, the applicant had several auctioneers  
4 submit bids on the various lots to obtain the best possible original bid. Then, in January 2003, the applicant  
5 conducted two out-of-court auctions using a bidding procedure intended to maximize overbids. Subsequently,  
6 the applicant negotiated purchase agreements with each of the successful bidders.

7 Apart from the auctions, the applicant also handled a number of other matters at the trustee's direction.  
8 These matters include the pursuit of a number of preference claims and the resolution of several issues with the  
9 debtor's landlords. The applicant also monitored the estate's position in a class-action securities litigation  
10 pending in the Southern District of New York and obtained refunds on insurance premiums. All told, the  
11 applicant estimates that its services have helped to bring over \$1 million into the estate and will reduce claims  
12 against the estate by over \$41 million.

#### 13 14 LEGAL DISCUSSION

15 Section 330 of the Bankruptcy Code mandates that any award of compensation must be reasonable  
16 and can only be allowed for actual, necessary services. 11 U.S.C. § 330 (a)(1)(A). Implicit in this statutory  
17 mandate is the bankruptcy court's obligation, as a guardian of the estate's funds, to review every application by  
18 professionals who seek compensation from the bankruptcy estate and to determine whether the fees requested  
19 fall within the parameters of the statute. This duty exists whether or not there is any opposition to the request.  
20 *In re Busy Beaver Building Centers, Inc.*, 19 F.3d 833, 841 (3<sup>rd</sup> Cir. 1994); *In re Berg*, 268 B.R. 250, 257  
21 (D. Montana 2001). In reviewing each application, the court must consider the nature, extent and value of the  
22 professional's services. If the court determines that some or all of the legal services provided were not likely  
23 to benefit the estate or were not necessary for the case, the court may award less compensation than requested.  
24 *In re Riverside-Linden Investment Co.*, 925 F.2d 320, 322-23 (9<sup>th</sup> Cir. 1991)(court may decline to award  
25 attorneys' fees where the time expended cannot be justified by a cost-benefit analysis). The burden of proof  
26 to show entitlement to all fees requested from the estate is on the applicant. *Berg*, 268 B.R. at 257.

Under these standards, and as set forth more fully below, certain time entries are noticeably deficient. As a result, a portion of the fees requested must be disallowed.

I. Excessive or Redundant Time

Attorneys have a duty to exercise good billing judgment when they apply for fees. *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983). Hours that are excessive in relation to the task accomplished or that are spent on unnecessary tasks are not reasonable and should be excluded from fee applications. See 11 U.S.C. § 330(a)(3)(D) and (a)(4)(A). In deciding whether time spent is excessive, the court must consider factors such as the skill and experience level of the practitioner, as well as the complexity, importance and nature of the task at hand. *Id.* at § 330 (a)(3)(D) and (E).

In this regard, the applicant's time records reflect a few occasions where an undue amount of time was devoted to performing what should have been relatively straightforward tasks. While the individual time entries do not appear out of line, consideration of a group of entries devoted to a single task reveals that the time devoted to that task was excessive. For example, the chart below, based on entries found in Exhibit C, demonstrates that two attorneys devoted almost eighteen hours to preparing two motions requesting an extension of time to assume or reject leases. The court finds that this time is excessive in light of the nature and complexity of the task accomplished, as well as the hourly rate charged. As a result, these entries are reduced by \$1,800.00, and \$1,515.00 is allowed for this task.

Page	Date	Atty	Time Entries	Hours	Amount Billed
2	11-06-02	VPL	Research on the procedural and substantive law for a motion to extend the time to assume or reject unexpired leases and executory contracts	0.60	\$90.00
2	11-06-02	VPL	Prepare motion to extend the time to assume or reject unexpired lease	1.70	\$255.00
2	11-06-02	VPL	Prepare a declaration in support of the motion to extend the time to assume or reject unexpired lease	1.60	\$240.00
2	11-07-02	EBD	Review and revise motion re leases	1.00	\$300.00
2	11-07-02	VPL	Review of changes to the motion to extend the time to assume or reject unexpired lease and the declaration in support of the motion	0.30	\$45.00

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Page	Date	Atty	Time Entries	Hours	Amount Billed
2	11-07-02	VPL	Confer with Ms. Berke-Dreyfuss via e-mail about changes to the motion to extend the time to assume or reject unexpired leases and executory contracts	0.10	\$15.00
2	11-08-02	EBD	Revisions to declaration in support of motion to extend time	0.90	\$270.00
2	11-08-02	VPL	Edit declaration in support of the motion to extend the time to assume or reject unexpired leases and executory contracts	0.30	\$45.00
2	11-11-02	VPL	Changes to motion to extend time to assume or reject unexpired leases and executory contracts and declaration in support of motion	0.20	\$30.00
3	11-12-02	VPL	Review of changes to the motion to extend time to assume or reject	1.00	\$150.00
3	11-15-02	EBD	Review and revise motion for to [sic] extend time to assume and assign	0.20	\$60.00
3	11-18-02	EBD	Review and revise two motions to extend the time to assume or reject lease	0.50	\$150.00
3	11-18-02	VPL	Prepare motion, notice of motion, and memorandum of points and authorities in support of motion to extend time to assume or reject lease with Sobrato	4.10	\$615.00
3	11-18-02	VPL	Edit motion, notice of motion, and memorandum of points and authorities in support of motion to extend time to assume or reject lease with Sobrato	0.50	\$150.00
3	11-19-02	EBD	Further revisions to Motions to extend the time to assume or reject leases	0.50	\$150.00
3	11-19-02	VPL	Edit motion, notice of motion, and memorandum of points and authorities in support of motion to extend time to assume or reject lease with Sobrato	1.10	\$165.00
3	11-19-02	VPL	Prepare declaration in support of a motion to extend time to assume or reject lease with Sobrato	1.90	\$285.00
4	11-20-02	EBD	Review and revise motion to extend time to assume and assign lease for property and review and revise application for order shortening time	0.80	\$240.00

Page	Date	Atty	Time Entries	Hours	Amount Billed
4	11-20-02	VPL	Edit motion and declaration in support of motion to extend the time to assume or reject the lease with Sobrato	0.40	\$60.00
			<b>Total</b>	<b>17.70</b>	<b>\$3315.00</b>

Another series of entries in Exhibit C shows that an additional five hours was spent preparing an application for an order shortening time with respect to the same motion to extend time to assume or reject leases. Because the court believes that it should not have taken even a junior attorney this amount of time, this group of entries will be reduced to \$350.00, a reduction of \$355.00.

Page	Date	Atty	Time Entry	Hours	Amount Billed
4	11-20-02	VPL	Prepare application for OST for service and hearing of the motion to extend time to assume or reject the lease with Sobrato	1.30	\$195.00
4	11-20-02	VPL	Prepare OST for service and hearing of the motion to extend time to assume or reject the lease with Sobrato	0.30	\$45.00
4	11-20-02	VPL	Prepare declaration in support of application for OST for service and hearing of the motion to extend time to assume or reject the lease with Sobrato	1.10	\$165.00
4	11-20-02	VPL	Edit application for OST for service and hearing of the motion to extend time to assume or reject the lease with Sobrato	2.00	\$300.00
			<b>Total</b>	<b>4.70</b>	<b>\$705.00</b>

Further, as the next table reflects, two attorneys spent nine hours preparing an application and order to *amend* their first order extending the time to assume or reject the lease. This time is problematic for two reasons. First, as a general rule, orders extending time are uncomplicated and it should not take multiple hours to draft them. Additionally, however, work to correct errors in documents that should have been correct the first time around provides no real benefit to the estate in light of the task accomplished. For these reasons, the time set forth in the following table is disallowed.

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Page	Date	Atty	Time Entry	Hours	Amount Billed
6	12-16-02	EBD	Revise application and order regarding amendment of order extending time to assume Sobrato Lease	0.80	\$240.00
6	12-16-02	VPL	Prepare amended order extending the time to assume or reject the Sobrato lease	0.50	\$75.00
6	12-16-02	VPL	Research on the filing of an application for amendment of an order	0.40	\$60.00
6	12-16-02	VPL	Prepare application for amendment of order extending the time to assume or reject the Sobrato lease	1.10	\$165.00
6	12-16-02	VPL	Edit amended order to assume or reject lease with Sobrato	0.20	\$30.00
6	12-16-02	VPL	Prepare declaration in support of application to amend order extending the time to assume or reject the lease with Sobrato	0.70	\$105.00
6	12-17-02	EBD	Review application, declaration and order for amendment of order on extension of time to assume lease	2.00	\$600.00
6	12-17-02	VPL	Edit amended order extending time to assume or reject Sobrato lease	0.20	\$30.00
6	12-17-02	VPL	Further edit of amended order extending time to assume or reject Sobrato lease	0.20	\$30.00
6	12-17-02	VPL	Edit application to amend order extending the time to assume or reject the Sobrato lease	1.40	\$210.00
6	12-17-02	VPL	Edit declaration in support of application to amend order extending the time to assume or reject the Sobrato lease	1.30	\$195.00
7	12-18-02	VPL	Final review of application to amend order to extend the time to assume or reject the Sobrato lease and supporting declaration	0.20	\$30.00
			<b>Total</b>	<b>9.0</b>	<b>\$1,770.00</b>

Time can also be excessive in light of the role the attorneys are playing with respect to a particular project. To be compensable, services performed must have been reasonably likely to benefit the estate at the time the services were rendered. *In re Mednet*, 251 B.R. 103, 108 (9<sup>th</sup> Cir. BAP 2000). In determining whether any particular service satisfies this standard, the court must consider the circumstances and manner in

which services were performed and the results achieved. *Id.* For example, the estate receives no real benefit when an attorney reviews work performed by another attorney in the same firm or when extensive amounts of time are spent performing or monitoring services for which special counsel has been retained. The following entries relate to the applicant's review of documents in the IPO class action suit pending in New York. According to the application, the applicant merely monitored the IPO proceedings. In light of this limited role, the applicant's extensive review of documents is excessive and not of benefit to the estate. As a result, fees for the following entries from Exhibit E will be reduced to \$5,000.00, a reduction of \$12,795.00.

Page	Date	Atty	Services Rendered	Hours	Amount Billed
1	10-09-02	JCW	Review IPO litigation settlements and documents	1.80	\$540.00
1	10-10-02	JCW	Review documents re IPO litigation	5.60	\$1,680.00
2	10-22-02	JCW	Review documents re IPO	2.30	\$690.00
2	10-24-02	JCW	Review documents re IPO	3.20	\$960.00
2	10-25-02	JCW	Review IPO documents	1.30	\$390.00
2	10-28-02	JCW	Review IPO documents	1.20	\$360.00
2	11-25-02	JCW	Review and analyze IPO settlement and respond	3.10	\$930.00
2	12-12-02	JCW	Review and analyze new IPO settlement documents and respond	2.90	\$870.00
4	04-25-03	JCW	Review documents re IPO settlement documents and respond	4.10	\$1,332.50
4	05-02-03	JCW	Review settlement draft	1.10	\$357.50
4	05-23-03	JCW	Review documents re IPO	1.30	\$422.50
4	06-05-03	JCW	Review and analyze settlement documents	1.90	\$617.50
4	06-06-03	JCW	Review and analyze settlement documents	2.50	\$812.50
4	06-10-03	JCW	Review and analyze settlement documents	1.30	\$422.50
4	06-10-03	JCW	Review and analyze transfer documents	4.90	\$1,592.50
4	06-13-03	JCW	Review and analyze new settlement documents	1.90	\$617.50
4	07-08-03	JCW	Review documents re IPO	0.70	\$227.50
4	07-24-03	JCW	Review and analyze IPO documents	3.10	\$1,007.50
4	07-29-03	JCW	Review and analyze IPO claims against 3 <sup>rd</sup> party	5.20	\$1,690.00

Page	Date	Atty	Services Rendered	Hours	Amount Billed
4	07-30-03	JCW	Review and analyze new settlement documents (IPO)	3.30	\$1,072.50
4	08-25-03	JCW	Review IPO documents	3.70	\$1,202.50
			<b>Total</b>	<b>56.40</b>	<b>\$17,795.00</b>

II. Ministerial, Clerical or Administrative Time

In *Sousa v. Miguel (In re United States Trustee)*, 32 F.3d 1370, 1374 (9<sup>th</sup> Cir. 1994), the Ninth Circuit held that time entries for ministerial, clerical or administrative tasks are part of normal overhead expenses and, therefore, are non-compensable. *Id.* at 1374. This court believes that, in this day of computerized record-keeping, time spent separating time entries into project categories is most accurately described as ministerial. Under these standards, the following entries for ministerial or administrative time are disallowed:

Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
			<b>Exhibit A - General Administration</b>		
5	02-03-03	FLM	Instruct Ms. Anderson re preparation of certificate of service for Notice of Abandonment	-0.30	\$30.00
			<b>Exhibit B - Sale of Assets</b>		
8	11-19-02	VPL	Edit table of unexpired leases and executory contracts	-0.10	\$15.00
8	11-19-02	VPL	Edit table of unexpired leases and executory contracts	-0.10	\$15.00
14	12-17-02	RAL	Send NDA to Alan Li (LGC Wireless)	-0.10	\$32.50
18	01-08-03	RAL	send notice of sale to JR Witt, Adam Reich, John Soliday (.1)	-0.10	\$35.00
23	01-16-03	RAL	Send detailed asset lists to Mike Hokanson	-0.10	\$35.00
			<b>Exhibit C - Business Premises</b>		



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Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
7	01-02-03	VPL	Review of docket to determine if amended order extending the time to assume or reject the Sobrato lease entered	-0.10	\$17.50
			<b>Exhibit I - SVB Compromise</b>		
4	12-20-02	FLM	Fax order approving Compromise of Controversy (Silicon Valley Bank) to Fred Hjelmset	-0.10	\$7.50
			<b>Exhibit K - Fee Application</b>		
1	04-01-03	VPL	Review of pre-billing time sheets to prepare fee application	-0.70	\$122.50
1	04-02-03	VPL	Review of pre-billing time sheets to prepare fee application	-0.40	\$70.00
1	04-03-03	VPL	Review of pre-billing time sheets to prepare fee application	-0.20	\$35.00
2	04-08-03	VPL	Prepare task categories for fee application	-0.40	\$70.00
2	04-10-03	VPL	Review and analyze time entries to organize them by task categories for the preparation of fee application	-0.90	\$157.50
2	04-11-03	VPL	Review and analyze time entries to organize them by task categories for the preparation of fee application	-3.20	\$560.00
2	04-14-03	VPL	Review and analyze time entries to organize them by task categories for the preparation of fee application	-4.50	\$787.50
2	05-09-03	VPL	Review time entries for preparation of fee application	-2.30	\$402.50
3	05-20-03	VPL	Review time entries to assign categories	-2.10	\$367.50
3	05-27-03	VPL	Review time entries to categorize them and prepare fee application	-4.50	\$787.50
4	06-18-03	VPL	Edit time entries and assign categories to extra time entries	-0.20	\$35.00
			<b>Total</b>	<b>-20.40</b>	<b>\$3,582.50</b>

III. Inadequate Description

Each applicant for attorneys' fees is under a duty to describe the work performed in a manner which will enable a determination of whether the time is compensable. If the description is inadequate, then the court cannot determine whether the compensation requested is reasonable or whether it is for actual, necessary services. Because the applicant bears the burden of proof, its failure to provide an adequate description is sufficient basis to disallow the request for fees.

In this regard, one particular practice of the applicant is especially troubling to the court. Many of the applicant's time entries start with the phrase "attention to" and then describe the subject matter of the professional's attention. This vague term "attention to" fails to identify any specific task against which the court may judge the wide variety of time allotted to such descriptions. Without the ability to determine whether the time was suitable to the task and whether the task is necessary to the case, it is impossible to determine whether the fee request falls within the statutory parameters of 11 U.S.C. § 330, and the court is unable to allow compensation for that time. Absent further explanation, the court finds that the following entries are reduced or disallowed as indicated.

Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
			<b>Exhibit A - General Administration</b>		
10	08-07-03	VPL	Attention to objections to certain claims in the case	-0.30	\$52.50
10	08-08-03	VPL	<i>Attention to administrative claim analysis; review e-mails from M. Gabrielson, S. Decker and R. Gaspar re fees and costs; review case docket for fee application information</i>	-0.20	\$35.00
			<b>Allowed .3 hrs. for review of emails and case docket</b>		
			<b>Exhibit B - Sale of Assets</b>		
2	10-14-02	RAL	attention to intellectual property due diligence and transfer issues (.5)	-0.50	\$162.50
2	10-14-02	RAL	attention to parts, work-in-progress and finished goods questions (.7)	-0.70	\$227.50
2	10-15-02	RAL	attention to open questions such as status of new designs, relations with distributors, purchase order, license with M. Fuerter (1.4)	-1.40	\$455.00

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Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
3	10-21-02	RAL	attention to packages going to prospective acquirors [sic] and to liquidators (.6)	-0.60	\$195.00
4	10-24-02	RAL	Attention to IP information for Kaval and respond to Kaval email  <b>Allowed .1 hr. for response to email</b>	-0.10	\$32.50
4	10-25-02	RAL	Attention to emails from Ubiquital and revisions to NDA	-0.30	\$97.50
6	11-06-02	RAL	Attention to NDA's and due diligence packages for Crescendo, Dekolink and Andrews, Inc. and on-line review of web sites of same re operations in telecom  <b>Allowed .2 hrs. for on-line review</b>	-0.20	\$75.00
8	11-15-02	RAL	Attention to response to EMS	-0.10	\$32.50
8	11-19-02	RAL	Attention to NextG Networks NDA	-0.10	\$32.50
9	11-22-02	RAL	Attention to sending NDAs to parties submitting them and check transmittal letters to NDA parties	-0.20	\$65.00
10	12-03-02	RAL	Attention to NDA's and information packages for Mikom-US and Etenna	-0.20	\$65.00
10	12-04-02	RAL	Attention to schedule for sale	-0.40	\$130.00
10	12-05-02	RAL	Attention to deadlines for bid process and email to J. Wurms, E. Dreyfuss and V. Loumber re same  <b>Allowed .1 hr. for email</b>	-0.30	\$97.50
11	12-06-02	RAL	Attention to transmittal of NDA's to prospective buyers	-0.10	\$32.50
13	12-12-02	RAL	Attention to terms and timing of bids for liquidators and companies; attention to breaking assets into separate lots	-1.20	\$390.00
14	12-14-02	RAL	Attention to information needed from Repeater computer servers (.4)	-0.40	\$130.00
17	01-02-02	RAL	Attention to request for Repeater depreciation schedules and telephone call from JR Witt re ARC Wireless questions about asset lists (.2)  <b>Allowed .1 hr. for telephone call</b>	-0.10	\$35.00

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Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
19	01-10-03	RAL	Attention to delivery of Notice of Sale to all company bidders	-0.20	\$70.00
20	01-14-03	RAL	Attention to antenna and Chinese Repeater lots as they affect bidding; conference with J. Wurms re how to handle these lots (.5)  <b>Allowed .3 hrs. for conference</b>	-0.20	\$70.00
24	01-16-03	RAL	Attention to effect of giving bid credit to ARC Wireless for \$56,000 lease payment commitment	-0.20	\$70.00
24	01-16-03	RAL	Attention to credit to ARC Wireless for lease commitment, return of funds depending on landlord deal, removal of Lots 2 & 3 to equalize bids, allowing bidders to cut arrange for lien releases directly with Phoenix, alternatives for obtaining computer data an DoveBid's view of Lots 2 & 3, timing of removal and responsibility for lease costs	-0.30	\$105.00
24	01-17-03	RAL	Attention to how to resolve discrepancies between bids for Lots 1, 2 & 3, Lots 1 & 2, and Lot 1 in view of amounts owed to Phoenix Leasing for Lots 2 & 3	-0.40	\$140.00
24	01-17-03	RAL	Attention to resolution of issue of providing license to intellectual property to buyers of existing inventory despite selling intellectual property to third party	-0.20	\$70.00
27	01-21-03	RAL	Attention to overbid auctions for remaining lots and how to handle license from winner of intellectual property to buyers of inventory	-0.30	\$105.00
28	01-21-03	RAL	Attention to comments to Asset Purchase Agreement with Wireless Networking, including cross-closing conditions, license provisions, timing of closing and other issues	-0.30	\$105.00
29	01-22-03	RAL	Attention to possible alternatives to additional ARC Wireless bid for Lot 7	-0.30	\$105.00
30	01-23-02	RAL	Attention to Steven Li request re license to intellectual property for OA 850s; send draft licenses to Steven Li	-0.30	\$105.00
31	01-24-03	RAL	Attention to concerns of EMS regarding transfer of intellectual property, elimination of condition on sale of intellectual property and timing of approval (.6)	-0.60	\$210.00

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Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
33	01-28-03	RAL	attention to alternative plans for disposing of Lot & preserving the intellectual property in Lot 7 on computer media (.7)	-0.70	\$245.00
33	01-28-03	RAL	Attention to possible ARC Wireless back-up bid (.1)	-0.10	\$35.00
34	01-29-03	RAL	Attention to descriptions of intellectual property rights in purchase agreement and bid instructions (.5)	-0.50	\$175.00
35	01-30-03	RAL	Attention re preparation of auction instructions for new intellectual property auction	-1.10	\$385.00
35	01-30-03	RAL	Attention to problem of assigning software to buyer of intellectual property (.4)	-0.40	\$140.00
36	01-30-03	RAL	Attention to new auction for intellectual property, different alternatives for transferring database files, potential cost of assistance from Mike Dill and John Soliday, timing of sale, need to have companies review database on site, personnel required for review of databases	-0.70	\$245.00
36	01-30-03	RAL	Attention to software required for HP and Sun servers to access intellectual property databases	-0.40	\$140.00
40	02-05-03	RAL	Attention to format and presentation for holding two auction: one with exclusive rights from Matt Fuerter and one without exclusive rights from Matt Fuerter	-0.50	\$175.00
42	02-10-03	RAL	Attention to and draft language re reason for waiving stay  <b>Allowed .1 hr. for drafting</b>	-0.10	\$35.00
			<b>Exhibit C - Business Premises</b>		
9	07-17-03	VPL	Attention to files re amended order extending the deadline to assume or reject the Sobrato lease	-0.40	\$70.00
9	07-18-03	VPL	Attention to order amending order extending the deadline to assume or reject the Sobrato lease	-0.20	\$35.00
			<b>Exhibit D - Other Professionals</b>		

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Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
2	10-24-02	RAL	Attention to AlphaCap partners proposal to represent Repeater	-0.10	\$32.50
2	10-29-02	RAL	Attention to emails and phone messages from liquidators and potential buyers	-0.20	\$65.00
3	11-12-02	RAL	Attention to Larchmont engagement documents	-0.10	\$32.50
			<b>Exhibit F - Insurance</b>		
4	05-09-03	VPL	Attention to requests for auditing of insurance policies; telephone call with V. Castro about status on request for auditing of insurance policies  <b>Allowed .4 hrs. for phone call</b>	-0.40	\$70.00
5	06-04-03	VPL	Attention to the debtor's package insurance policy	-0.10	\$17.50
6	06-12-03	VPL	Attention to status of insurance policies and updating status on return premiums and various contact information	-0.40	\$70.00
8	07-09-03	VPL	Attention to status of collecting insurance policy premiums from insurance companies	-0.10	\$17.50
8	07-15-03	VPL	Attention to package policy information	-0.10	\$17.50
9	07-27-03	VPL	Attention to determining whether the estate is entitled to a return premium under the debtor's D&O insurance policy	-0.50	\$87.50
9	07-28-03	VPL	Attention to status of requested return premium on package policy	-0.10	\$17.50
9	08-12-03	VPL	Attention to status of return check premiums on insurance policies	-0.10	\$17.50
9	08-13-03	VPL	Attention to receipt of check from Hartford re return premium on cargo policy; call Hartford Insurance to confirm that check is re Repeater's cargo policy  <b>Allowed .1 hr. for phone call</b>	-0.10	\$17.50
10	09-25-03	VPL	Attention to e-mail from F. Sowers re return premium check on the package policy	-0.10	\$17.50
			<b>Exhibit H - Preferences</b>		

Page	Date	Atty	Services Rendered	Hours not allowed	Amount not allowed
2	06-02-03	VPL	Attention to files containing preference claim information	-0.30	\$52.50
5	07-31-03	VPL	Attention to payment amounts in preference demand letters	-0.10	\$17.50
5	08-01-03	VPL	Attention to preference demand letters	-0.10	\$17.50
6	08-19-03	VPL	Attention to two telephone messages from J. Pomerantz re preference claim against Sanmina; prepare e-mail to J. Pomerantz re same and time for contact  <b>Allowed .1 hr. for email</b>	-0.10	\$17.50
7	09-10-03	VPL	Attention to preference payment received by Optim Microwave; confer with J. Wurms re same  <b>Allowed .1 hr. for conference</b>	-0.10	\$17.50
8	09-17-03	VPL	Attention to terms of amendment to restructuring agreement and search for person most familiar with terms of and performance under amendment to restructuring agreement between the debtor and Sanmina	-0.10	\$17.50
<b>Total</b>				<b>19.0</b>	<b>\$5,797.50</b>

IV. Expenses

As a finalnote, there was one item of expense amounting to \$25.00 which was not sufficiently described and therefore must be disallowed. The item is dated March 21, 2003 and is described as "Miscellaneous PBMS Overtime." Based on this description, the expense appears to be noncompensable overhead.

Good cause appearing, **IT IS ORDERED:**

The First Interim Application for Compensation and Reimbursement of Expenses by Counsel for Trustee is allowed in the amount of \$170,686.25 in fees and \$9,895.13 costs, for a total of \$180,581.38.

DATED: \_\_\_\_\_

UNITED STATES BANKRUPTCY JUDGE

Case No. 02-55642

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CERTIFICATE OF SERVICE

I, the undersigned, a regularly appointed and qualified Clerk in the office of the Bankruptcy Judges of the United States Bankruptcy Court for the Northern District of California, San Jose, California hereby certify:

That I am familiar with the method by which items to be dispatched in official mail from the Clerk's Office of the United States Bankruptcy Court in San Jose, California processed on a daily basis: all such items are placed in a designated bin in the Clerk's office in a sealed envelope bearing the address of the addressee, from which they are collected at least daily, franked, and deposited in the United States Mail, postage pre-paid, by the staff of the Clerk's Office of the Court;

That, in the performance of my duties, on the date set forth below, I served the **MEMORANDUM DECISION AND ORDER** in the above case on each party listed below by depositing a copy of that document in a sealed envelope, addressed as set forth, in the designated collection bin for franking, and mailing:

Jeffrey C. Wurms  
Wendel, Rosen, Black & Dean, LLP  
1111 Broadway, 24<sup>th</sup> Floor  
Oakland, California 94607-4036

Suzanne Decker  
Chapter 7 Trustee  
151 Callan Avenue  
Suite 305  
San Leandro, California 94577

In addition, I am familiar with the Court's agreed procedure for service on the United States Trustee, by which a copy of any document to be served on that agency is left in a designated bin in the Office of the Clerk, which bin is collected on a daily basis by the United States Trustee's representative. In addition to placing the above envelopes in the distribution bin for mailing, I placed a copy of the **MEMORANDUM DECISION AND ORDER** in the United States Trustee's collection bin on the below date.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on:

\_\_\_\_\_  
Clerk